The present bill, brought by the children, after attaining majority, against the widow and the complainant in the former suit, is to set aside the decree entered therein. One of the grounds upon which relief is asked is the fact that the guardian ad litem in the former suit had an interest in that suit adverse to the infant. *Held,* that the appointment was valid though "the appointment of some other person as guardian ad litem might have been better * * * * and the results ought not to be less binding unless there was fraud or collusion." *Howell* v. *Howell* (Ore. 1915) 152 Pac. 217.

In *Elrod* v. *Lancaster,* 39 Tenn. 571, one legatee under a will brought a bill against the executor and the other legatees for the settlement of the estate. The executor was appointed guardian ad litem for the infant defendants. In annulling the decree the Supreme Court said "We cannot permit a decree, made under such circumstances, to compromit the rights of the infants." See also *O'Connor* v. *Carver,* 59 Tenn. 436; *Patterson* v. *Pullman,* 104 Ill. 80; *George* v. *High,* 85 N. C. 113; *Walker* v. *Crowder,* 37 N. C. 478. In these cases the appointments were held invalid because there was a conflict of interest between the guardian ad litem and the infant. It was not suggested, as in the principal case, that fraud or collusion on the part of the guardian ad litem was necessary to invalidate the proceedings. The rule announced in I DANIELL, CHANCERY PRACTICE, (5th Ed.) 176, is in accord with the cases last cited.

INSURANCE—AGENT'S ADVERSE INTEREST IMMATERIAL.—An insurance agent was an officer and stockholder in a bank which held a mortgage on the property insured and inserted in the policy a clause which provided for the payment to the mortgagee as his interest might appear. *Held,* that the agent may make such a reservation in the policy, and that the insurer's ignorance of the other capacity of the agent will not, in the absence of fraud, render the policy void. *Milwaukee Mechanics Insurance Co. et al.* v. *Fuquay* (Ark. 1915) 179 S. W. 497.

The authorities are plain that the insurance agent may not insure property of a corporation of which he is a stockholder or officer, and that such a condition is a serving of two masters by the agent and renders the policy void. *Greenwood Ice & Coal Co.* v. *Georgia Home Ins. Co.,* 72 Miss. 46; *Rockford Ins. Co.* v. *Winfield,* 57 Kan. 576; *Riverside Devel. Co.* v. *Hartford Fire Ins. Co.,* 105 Miss. 184, 62 So, 169; *Shamokin Mfg. Co.* v. *Ohio German Fire Ins. Co.,* 39 Pa. Super. Ct. 553; see dictum in *Dull* v. *Royal Ins. Co.,* 159 Mich. 671. Or that the policy becomes voidable when the insurer learns of the double capacity of the agent. *Arispe Mercantile Co.* v. *Queen Ins. Co.,* 141 Io. 607. This doctrine of agency, however, is not applied in insurance law to cases where the agent also acts as agent of the insured for the purpose of keeping the property insured. *Wilson* v. *German Am. Ins. Co.,* 90 Kan. 355; *Phoenix Ins. Co.* v. *State,* 76 Ark. 180; *Dibble* v. *Northern Assur. Co.,* 70 Mich. 1; *Todd* v. *German Am. Ins. Co.,* 2 Ga. App. 789. Although the contrary has been asserted by the Illinois court. *People's Ins. Co.* v. *Paddin,* 8 Ill. App. 447, affirmed in 107 Ill. 196. An agent who at the time of issuing the policy was a member of the board of school directors for the district

whose property was insured has no such interest that disqualifies him from issuing the policy, as the interest is merely a nominal one. *German Ins. Co.* v. *Independent School Dist.*, 80 Fed. 366, 25 C. C. A. 492. The principal case relies on the authority of *Citizens State Bank of Chautauqua* v. *Shawnee Fire Ins. Co.*, 91 Kan. 18, where under the same statement of facts the Kansas court held that the policy was valid and that the maxim did not apply, the court saying that "The maxim that no man shall serve two masters does not prevent the same person's acting as agent for certain purposes of two or more parties when their interests do not conflict and when loyalty to one is not a breach of duty to the other. Here the fact that the agent was cashier of the bank which held the mortgage did not prevent his acting with fidelity to his principal, and there is no reason to suppose that the risk would have been refused had all the facts been fully disclosed." See also *Fisk* v. *Royal Exchange Assur. Co.*, 100 Mo. App. 545.

INSURANCE—FORFEITURE FOR BREACH OF CONDITION OR WARRANTY.—Plaintiff insured his farm and personal property in the defendant company, a farmers' mutual fire insurance company. The charter and by-laws of the insurer contained clauses which stated that the policy would become void if additional insurance was procured without notice or consent of the insurer. Plaintiff procured such other insurance without notice or consent; and when the plaintiff presented notice of loss and demanded payment, the defendant refused. *Held*, that the statute declaring "No policy of fire insurance shall hereafter be declared void by the insurer for the breach of any condition of the policy if the insurer has not been injured by such breach, or where a loss has not occurred during such breach and by reason of such breach of condition," applies and allows a recovery on the policy. *Lagden* v. *Concordia Mutual Fire Ins. Co.* (Mich. 1915) 154 N. W. 87.

The application of the plaintiff contained a promise to agree to and abide by the charter and by-laws, and that a breach of this should render the policy void. The dissenting opinion declares this to be a warranty and hence not affected by the statute, which applies only to conditions. *Sheldon* v. *Mich. Millers' Mutual Fire Ins. Co.*, 124 Mich. 303; *McGannon* v. *Mich. Millers' Mutual Fire Ins. Co.*, 127 Mich. 636; *Benham* v. *Farmers' Mutual Fire Ins. Co.*, 165 Mich. 406. The question whether a promise made in the application constitutes a warranty depends on whether the application is made part of the contract. *Phoenix Life Ins. Co.* v. *Raddin*, 120 U. S. 183. When the application is made part of the policy, the statements and answers made therein are warranties, if made in such form, and the insured's intent to bind himself to the exact truth in his answers, even as to immaterial facts, is adequately manifested, and the parties thereby agree upon the materiality of the things warranted. *Armour* v. *Insurance Co.*, 90 N. Y. 450; *Am. Credit Indemnity Co.* v. *Mfg. Co.*, 95 Fed. Ill., 36 C. C. A. 671; *Hoose* v. *The Prescott Ins. Co.*. 84 Mich. 309. Several states have regulated this rule by statute, declaring that to be effective, the warranty must be contained either in the policy, or in the signed application, which must be referred to in express terms in the policy or incorporated in full therein POMEROY'S